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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,102	08/06/2003	Joseph Skrivan	21057.NP	6950

7590 01/31/2005
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EXAMINER

PAYER, HWEI SIU CHOU

ART UNIT	PAPER NUMBER
3724	

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/635,102

Applicant(s)

SKRIVAN ET AL.

Examiner

Hwei-Siu C. Payer

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 8-10 and 15-17 is/are rejected.
- 7) ☒ Claim(s) 4-7 and 11-14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Detailed Action

Objection to the Specification

The disclosure is objected to because of the following informalities:

(1) On page 3, line 27, "can by" should read --can be--.

Appropriate correction is required.

Claims Rejection - 35 U.S.C. 103(a)

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 8 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoeldtke (U.S. Patent No. 2,738,815).

Hoeldtke discloses an axe device comprising an elongated shaft (15), a pick (12), a secondary grip (22), a primary grip (20), and a pommel (25) substantially as claimed except the pommel (25) is not adjustable.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make Hoeldtke's pommel (25) adjustable, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. In re Stevens, 101 USPQ 284, CCPA 1954.

Further, Hoeldtke expresses the desire to make the grip (20) adjustable to be adjustably securable to a proximal end of the shaft (15) movable towards and away from the shaft (15) to respectively shorten and lengthen a length of the shaft (15). Therefore, it would have been obvious to one skilled in the art to also make Hoeldtke's pommel (25) adjustable to further facilitate lengthening the length of the grip/shaft (20/15) as one desired.

3. Claims 2, 3, 9, 10, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoeldtke (U.S. Patent No. 2,738,815) as applied to claims 1, 8 and 15 above, and further in view of Santos et al. (U.S. Patent No. 6,073,307).

Hoeldtke's axe device as modified above lacks at least one spacer for adjusting the length of the grip (20).

Santos et al. states (see column 1, lines 53057) it is well known in the art to add spacers to a hand grip for grip adjustment.

In view of this fact, it is obvious to one skilled in the art to further modify Hoeldtke by providing the axe device with spacers for grip adjustment as desired.

Indication of Allowable Subject Matter

Claims 4-7 and 11-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Art Citations

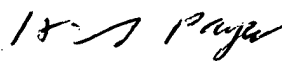
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Porter, French, Higgs, Munzer, Bennett, French Patent '664, German Patent '759 and EP '353 are cited as art of interest.

Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 571-272-4511. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for official communications and 571-273-4511 for proposed amendments.

H Payer
January 28, 2005


Hwei-Siu Payer
Primary Examiner